

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 07-0193P
Petroleum Severance Tax
For the month of January 2007**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. **Tax Administration** – Penalty

Authority: IC § 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late payment and filing of a monthly petroleum severance tax return for the month of January 2007. The taxpayer is an out-of-state company.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the taxpayer did not have enough time to file the return as February is a short month. The Department points out that the taxpayer is required by Indiana tax regulations to file all periods on a timely basis.

The taxpayer's compliance record is not good. The tax payer had two abatements in the year 2002. This is a compliance record that is a negative factor in the decision to abate penalty.

The regulation which references inattention is 45 IAC 15-11-2(b) which states:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations.

Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.

TB/DR/DK-May 25, 2007